

12. (Not Amended) A mounting device according to claim 9, further comprising means for fastening said second member to a tree.

REMARKS

Claims 1, 3-7, 9, 10 and 12 are presented for consideration, with Claims 1, 6 and 9 being independent.

The independent claims have been amended to further distinguish Applicant's invention from the cited art. In amending the claims, the minor objection to Claim 9 has been corrected.

The amendments to the claims were not presented earlier as it was believed that the previously presented claims would be found allowable. This Amendment does not add any additional claims. Moreover, the Examiner's familiarity with the subject matter of the present application will allow an appreciation of the significance of the amendments herein without undue expenditure of time and effort. Finally, the Amendment does not raise new issues requiring further consideration or search. Accordingly, it is believed that entry of the Amendment is appropriate.

Claims 1, 4, 6, 7, 9 and 12 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 4,939,004, to Fuss. Claims 3 and 10 stand rejected under 35 U.S.C. §103 as allegedly being obvious over the Fuss patent in view of U.S. Patent No. 2,915,270, to Gladsden. In addition, Claim 5 has been rejected as allegedly being obvious over the Fuss patent in view of the Aldridge patent, U.S. Patent No. 5,071,098. These rejections are respectfully traversed.

Applicant's invention as set forth in Claim 1 relates to a tree-top mounting device comprised of an elongated housing, an elongated support slidably received within the elongated housing, and a fitting head disposed at a distal end of the elongated support. A fastener is adapted to secure the elongated housing to a tree, and a lock secures the sliding support in the elongated housing at a desired position. As amended, Claim 1 recites that the housing is capable of housing substantially half of the elongated support.

Claim 6 relates to a tree-top mounting device that includes a mounting with an elongated housing and a sliding rod slidable within the elongated housing, and a fastener adapted to attach the elongated housing to a tree. Further, a locking mechanism locks the sliding rod in the elongated housing. As in Claim 1, Claim 6 has been amended to recite that the elongated housing is capable of substantially housing at least half of the sliding rod.

Finally, Claim 9 relates to a tree-top mounting device that includes telescoping means comprising an elongated first member slidably received in an elongated second member, and means for connecting the first member to an object. In addition, means for locking the first member and the second member together is provided. Claim 9 has been amended to recite that the second member is capable of housing substantially at least half of the first member.

As discussed in the previous Amendment of August 29, 2002, the Fuss patent relates to a Christmas tree ornament for attachment to a conventional Christmas tree. As shown in Figure 2, the ornament includes a telescoping rod 18 and a tubular member, or housing, 24. A spring clamp 22 secures the rod to the tree, and a clamp 26 secures the housing to the tree.

The Office Action takes the position that a clamping member 20 in the Fuss patent serves as a housing, and a screw 21 provides a lock for securing the rod 18 within the "housing" 20. It is respectfully submitted, however, that the clamping member 20 in Fuss is

nothing more than that -- a clamping member and should not be read as a housing member. The rod 18 is housed in the tubular member 24. The purpose of the clamping member 20 is to secure the rod 18, via the spring clamp 22, to the tree. Moreover, the claims have been amended to recite that the housing is capable of housing substantially half of the elongated support (or rod or first member). The clamping member 20 clearly cannot do this. It is respectfully submitted that these amendments even further distinguish Applicant's invention from the Fuss patent.

Accordingly, reconsideration and withdrawal of the rejection of Claims 1, 4, 6, 7, 9 and 12 under 35 U.S.C. §102(b) is respectfully requested.

The Gladsden patent relates to an adjustable support and was cited for its teaching of a bayonet coupling attachment. The patent to Aldridge relates to a Christmas tree ornament shelf and was cited for its teaching of a hook and loop fastener.

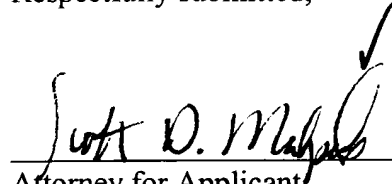
These secondary citations, however, fail to compensate for the deficiencies in the Fuss patent as discussed above with respect to Applicant's independent claims. Therefore, without conceding the propriety of combining Fuss with either Gladsden or Aldridge, such combinations still fail to teach or suggest Applicant's claimed invention. Therefore, reconsideration and withdrawal of the rejections of Claims 3, 5 and 10 under 35 U.S.C. §103 are respectfully requested.

Accordingly, it is submitted that Applicant's invention as set forth in independent Claims 1, 6 and 9 is patentable over the cited art. In addition, dependent Claims 3-5, 7, 10 and 12 set forth additional features of Applicant's invention. Independent consideration of the dependent claims is respectfully requested.

In view of the foregoing, reconsideration and allowance of this application is deemed to be in order and such action is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE TO CLAIMS

1. (Three Times Amended) A tree-top mounting device, comprising:

an elongated housing;

an elongated support slidably received within said elongated housing,

with said housing capable of housing substantially half of said elongated support;

a fitting head disposed at a distal end of said elongated support;

a fastener adapted to secure said elongated housing to a tree; and

a lock to secure said sliding support in said elongated housing at a

desired position.

6. (Three Times Amended) A tree-top mounting device, comprising:

a mount including an elongated housing and a sliding rod slidable

within said elongated housing, said sliding rod having a distal end adapted to receive an
ornament and said elongated housing capable of substantially housing at least half of said sliding
rod;

a fastener adapted to attach said elongated housing to a tree; and

a locking mechanism for locking said sliding rod in said elongated

housing.

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9. (Three Times Amended) A tree-top mounting device comprising:
- telescoping means comprising an [elongated] elongated first member
slidably received in an elongated second member, with said second member capable of housing
substantially at least half of said first member;
- means for connecting said first member to an object; and
- means for locking said first member and said second member together.

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